



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DeGRADO *et al.*

Appl. No.: 10/801,951

Filed: March 17, 2004

For: **Facially Amphiphilic Polymers and
Oligomers and Uses Thereof**

Confirmation No.: 2895

Art Unit: 1617

Examiner: Chong, Yong Soo

Atty. Docket: 1694.0630003/JMC/AES

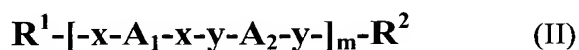
Reply to Restriction and Election of Species Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated April 10, 2006, requesting an election of one invention to prosecute in the captioned patent application, Applicants hereby provisionally elect to prosecute the invention of Group III, represented by claims 16-48, which are drawn to a method of treating a microbial infection in an animal, the method comprising administering an effective amount of a pharmaceutical composition comprising an oligomer of Formula II. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

In addition, Applicants provisionally elect the single oligomer of Formula II,



wherein: x is NR⁸; R⁸ is hydrogen; y is C=O; A₁ is *m*-phenylene substituted with one polar group and one non-polar group, wherein the polar group is -(NR^{5'})_{q1PL}-U^{PL}-(CH₂)_{pPL}-(NR^{5'})_{q2PL}-V wherein U^{PL} is S, pPL is 2, q1PL and q2PL are 0, and V is amino, and the non-polar group is -(NR^{3''})_{q1NPL}-U^{NPL}-(CH₂)_{pNPL}-(NR^{3''})_{q2NPL}-R^{4'} wherein U^{NPL} is absent, pNPL is 0, q1NPL and q2NPL are 0, and R^{4'} is *t*-butyl; A₂ is unsubstituted pyrimidinylene; R¹ is the polar group -(NR^{5'})_{q1PL}-U^{PL}-(CH₂)_{pPL}-(NR^{5'})_{q2PL}-V wherein

U^{PL} is $-C(=O)-$, pPL is 4, $q1PL$ and $q2PL$ are 0, and V is guanidino; R^2 is $-x-A_1-x-R^1$ wherein x , A_1 , and R^1 are as defined above; and m is 1. The oligomer elected by Applicants is disclosed in the captioned specification at page 100, as the third compound from the top of the page. Claims 16, 17, 22, 23, 24, 26, 27, 28, 31, 32, 35, 36, 37, 39, 41, 42, 43, 44, 46, and 47 read on this species.

This election is made **with** traverse.

The claims of Groups III and IV should be examined together. The claims of Group IV are subgeneric to those of Group III. Group III encompasses claims drawn to a method of treating a microbial infection using oligomers of Formula II, while Group IV encompasses claims drawn to the same method, but using oligomers of Formula IIa. The oligomers of Formula IIa represent a subgenus of the oligomers of Formula II. Because the Formula IIa oligomers in Group IV represent a subgenus of those in Group III, and because the claims of both Groups III and IV are directed to the same method of use, *i.e.*, use of the oligomers to treat a microbial infection, the claims of Groups III and IV should be examined together. Moreover, the elected species falls squarely within the claims of both Groups III and IV.

Applicants thus submit that the search of Groups III and IV would not impose any burden upon the Examiner, because a search concerning the patentability of the invention of one group is likely to uncover art of interest to the other group. Therefore, Applicants respectfully request that the Group IV claims be rejoined to the claims of Group III.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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